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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/847,005	05/02/2001	Gabriel K. Wong	DGMMP001C3	5364

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EXAMINER

LEI, TSULEUN R

ART UNIT	PAPER NUMBER
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2681

DATE MAILED: 06/26/2003

13

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/847,005

Applicant(s)

WONG ET AL.

Examiner

TSULEUN R. LEI

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 46-109 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 46-109 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2, 8, 9.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

2. Claims 48, 50-55, 61, 64, 66-71, 77, 80, 82-87, 93, 96, 98-103 and 109 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement.

The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

Regarding Claims 48, 64, 80 and 96, the claimed subject matter of "data comprises both message and protocol information" is not described in the specification.

Regarding Claims 50, 66, 82 and 98, the claimed subject matter of "data comprises a plurality of successive packets" is not described in the specification.

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Regarding Claims 51, 67, 83 and 99, the claimed subject matter of “the specified amount of bandwidth requested comprises a total number of successive packets” is not described in the specification.

Regarding Claims 52, 68, 84 and 100, the claimed subject matter of “successive packets includes both message and protocol information” is not described in the specification.

Regarding Claims 53, 69, 85 and 101, the claimed subject matter of “a series of time slots occurring repeatedly” is not described in the specification.

Regarding Claims 54, 70, 86 and 102, the claimed subject matter of “a third signal”, “a second specific timeslot”, “the second node”, “the second request signal is received after transmission of the second signal”, and “prior to receipt of the data transmitted from the first node” are not described in the specification.

Regarding Claims 55, 71, 87 and 103, the claimed subject matter of “a third signal”, “a second specific timeslot”, “the second node”, and “the second request signal is received prior to transmission of the second signal” are not described in the specification.

Regarding Claims 60, 76, 92 and 108, the claimed subject matter of “data comprises both message and protocol information”, and “a series of time slots occurring repeatedly” are not described in the specification.

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Regarding Claims 61, 77, 93 and 109, the claimed subject matter of "a third signal", "a second specific timeslot", "the second node", and "the second request signal is received after transmission of the second signal, and prior to receipt of the data transmitted from the first node" are not described in the specification.

Double Patenting

3. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

4. Claims 46, 62, 78 and 94 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 1 of U.S. Patent No. 6,282,406. Although the conflicting claims are not identical, they are not patentably distinct from each other.

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5. Claims 47, 63, 79 and 95 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1 and 2 of U.S. Patent No. 6,282,406. Although the conflicting claims are not identical, they are not patentably distinct from each other because the combination of claim 2 and claim 1, Col.15, Lines 26-28 of the above cited patent teaches that the data received from the first node in response to the second signal is provided in the at least one timeslot allocated within the specified amount of bandwidth requested.

6. Claims 49, 65, 81 and 97 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 1 of U.S. Patent No. 6,282,406. Although the conflicting claims are not identical, they are not patentably distinct from each other (claim 1, Col. 15, Lines 31-33 of the above cited patent).

7. Claims 56, 72, 88 and 104 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 4 of U.S. Patent No. 6,282,406. Although the conflicting claims are not identical, they are not patentably distinct from each other.

8. Claims 57, 73, 89 and 105 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 5 of U.S. Patent No. 6,282,406. Although the conflicting claims are not identical, they are not patentably distinct from each other.

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9. Claims 59, 75, 91 and 107 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 6 of U.S. Patent No. 6,282,406. Although the conflicting claims are not identical, they are not patentably distinct from each other.

10. Claims 60, 76, 92 and 108 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1, 2 and 5 of U.S. Patent No. 6,282,406. Although the conflicting claims are not identical, they are not patentably distinct from each other.

11. Claims 58, 74, 90 and 106 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over a different patent (claim 3 of U.S. Patent No. 6,108,520). Although the conflicting claims are not identical, they are not patentably distinct from each other.

Conclusion

12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

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Ito et al. (U.S. Patent 5,396,496)

Godoroja (U.S. Patent 5,485,463)

Schwendeman et al. (U.S. Patent 5,206,855)

Schwendeman et al. (U.S. Patent 5,491,469)

Any inquiry concerning this communication or earlier communications from the examiner should be directed to TSULEUN R. LEI whose telephone number is 703-305-4828. The examiner can normally be reached on 8:30 to 5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dwayne D Bost can be reached on 703-305-4778. The fax phone numbers for the organization where this application or proceeding is assigned are 703-308-5403 for regular communications and 703-308-5403 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-3900.

TRL
TRL
June 19, 2003


ERIKA GARY
PATENT EXAMINER